

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 157**

Introduced by Baker, 44

Read first time January 7, 2005

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to telecommunications; to amend sections 86-128  
2 and 86-575, Revised Statutes Supplement, 2004; to reenact  
3 provisions relating to issuance of certificates and  
4 permits to agencies and political subdivisions of the  
5 state and the provision of telecommunications services by  
6 such agencies and political subdivisions; to repeal the  
7 original sections; and to declare an emergency.

8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 86-128, Revised Statutes Supplement,  
2 2004, is amended to read:

3           86-128. (1) (a) To preserve the integrity of a ubiquitous  
4 network, to preserve and advance universal service, and to ensure  
5 the delivery of essential and emergency telecommunications service,  
6 telecommunications common carriers and telecommunications contract  
7 carriers in Nebraska are subject to regulation by the commission.  
8 In addition to the requirements of section 86-129, a person shall  
9 file an application and receive either a certificate of convenience  
10 and necessity as a telecommunications common carrier or a permit as  
11 a telecommunications contract carrier before such person may (i)  
12 offer any telecommunications service or (ii) construct new  
13 telecommunications facilities in, or extend existing  
14 telecommunications facilities into, the territory of another  
15 telecommunications company to provide any telecommunications  
16 service.

17           ~~(b) The commission may only issue a certificate of~~  
18 ~~convenience and necessity as a telecommunications common carrier or~~  
19 ~~a permit as a telecommunications contract carrier after due notice~~  
20 ~~and hearing pursuant to commission rules and regulations. The~~  
21 ~~commission shall not issue a certificate or a permit to an agency~~  
22 ~~or political subdivision of the state.~~

23           (b) The commission may only issue a certificate of  
24 convenience and necessity as a telecommunications common carrier or  
25 a permit as a telecommunications contract carrier after due notice  
26 and hearing pursuant to commission rules and regulations. The  
27 commission shall not issue a certificate or a permit to an agency  
28 or political subdivision of the state.

1           (2) If a telecommunications company holds a certificate  
2 of convenience and necessity as a telecommunications common  
3 carrier, it shall not be required to obtain a permit as a  
4 telecommunications contract carrier.

5           (3) The commission may establish such just and reasonable  
6 classifications of groups of telecommunications common carriers and  
7 telecommunications contract carriers taking into consideration the  
8 special nature of the telecommunications service performed by such  
9 carriers. The commission may adopt and promulgate rules,  
10 regulations, and requirements to be observed by a carrier so  
11 classified or grouped as the commission deems necessary or  
12 desirable and in the public interest.

13           (4) The commission may waive applicability of subsection  
14 (1) of this section as to the provision of intra-LATA interexchange  
15 service under rules and regulations applicable to all  
16 telecommunications companies providing such interexchange service.  
17 After such waiver, the certificate or permit for and provision of  
18 intra-LATA interexchange service shall be governed by the statutes,  
19 rules, and regulations for a certificate or permit for and  
20 provision of inter-LATA interexchange service.

21           Sec. 2. Section 86-575, Revised Statutes Supplement,  
22 2004, is amended to read:

23           86-575. (1) Any agency or political subdivision of the  
24 state may:

25           (a) Own dark fiber;

26           (b) Sell dark fiber pursuant to section 86-576; and

27           (c) Lease dark fiber pursuant to section 86-577.

28           ~~(2) No agency or political subdivision of the state shall~~

1 ~~provide telecommunications services for a fee, except as authorized~~  
2 ~~in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,~~  
3 ~~and 85-1501 to 85-1542, or be issued a certificate of convenience~~  
4 ~~and necessity as a telecommunications common carrier or a permit as~~  
5 ~~a telecommunications contract carrier. Any agency or political~~  
6 ~~subdivision which sells or leases its dark fiber pursuant to~~  
7 ~~sections 86-574 to 86-578 shall not be deemed to be providing~~  
8 ~~telecommunications services for a fee.~~

9 (2) No agency or political subdivision of the state shall  
10 provide telecommunications services for a fee, except as authorized  
11 in sections 79-1319, 81-1120.01 to 81-1120.28, 85-401 to 85-418,  
12 and 85-1501 to 85-1542, or be issued a certificate of convenience  
13 and necessity as a telecommunications common carrier or a permit as  
14 a telecommunications contract carrier. Any agency or political  
15 subdivision which sells or leases its dark fiber pursuant to  
16 sections 86-574 to 86-578 shall not be deemed to be providing  
17 telecommunications services for a fee.

18 Sec. 3. Original sections 86-128 and 86-575, Revised  
19 Statutes Supplement, 2004, are repealed.

20 Sec. 4. Since an emergency exists, this act takes effect  
21 when passed and approved according to law.